



**STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL**

**STEVE MARSHALL
ATTORNEY GENERAL**

**501 WASHINGTON AVE
MONTGOMERY, AL**

July 7, 2021

Alabama Association of County Commissions
P.O. Box 5040
Montgomery, Alabama 36103

Alabama League of Municipalities
P.O. Box 1270
Montgomery, Alabama 36102

VIA EMAIL

Dear Commissioners and Councilmen:

As your governments begin to make plans for the combined \$1.7 billion designated to you by the American Rescue Plan Act of 2021, I write to draw your attention to the most recent guidance from the U.S. Department of the Treasury related to permissible uses of these funds. On June 23, the Department issued an updated “Frequently Asked Questions” document that includes a welcomed provision authorizing the use of these funds to reduce violent crime—and gun violence, specifically—that has increased “due to the pandemic.”¹ As is true nationwide, many areas of our great state have recently experienced surges in violent crime. Accordingly, I urge you to employ your Rescue Plan funds in the fight against this dangerous lawlessness.

The full “Frequently Asked Questions” document from the Department is attached hereto, but the relevant provisions are as follows:

In all communities, recipients may use resources to rehire police officers and other public servants to restore law enforcement and courts to their pre-pandemic levels.

¹ U.S. DEP’T OF TREASURY, CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS: FREQUENTLY ASKED QUESTIONS, 19-20 (2021), <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

Additionally, funds can be used for expenses to address COVID-related court backlogs, including hiring above pre-pandemic levels, as a response to the public health emergency.

In communities where an increase in violence or increased difficulty in accessing or providing services to respond to or mitigate the effects of violence is a result of the pandemic, they may use funds to address that harm. This spending may include:

- Hiring law enforcement officials—even above pre-pandemic levels—or paying overtime where the funds are directly focused on advancing community policing strategies in those communities experiencing an increase in gun violence associated with the pandemic.
- Community Violence Intervention (CVI) programs, including capacity building efforts at CVI programs like funding and training additional intervention workers.
- *Additional enforcement efforts to reduce gun violence exacerbated by the pandemic, including prosecuting gun traffickers, dealers, and other parties contributing to the supply of crime guns, as well as collaborative federal, state, and local efforts to identify and address gun trafficking channels.*
- *Investing in technology and equipment to allow law enforcement to more efficiently and effectively respond to the rise in gun violence resulting from the pandemic.*²

The Department’s document goes on to highlight an even broader range of funding uses for communities or populations that have been “disproportionately impacted” by the pandemic, including communities experiencing a “pandemic-related increase in crime or gun violence.”³ These uses are laid out in further detail in the Treasury Department’s interim final rule,” also attached.⁴

² Id.

³ Id. at 21.

⁴ CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS, 86 Fed. Reg. 26786 (May 17, 2021).

Applying Treasury’s interpretation of another provision in the Rescue Plan, an increase in violent crime that occurs as of four points in time—December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023—can be presumed to have been a result of (or “due to”) the COVID-19 public health emergency.⁵ Thus, if you have experienced a rise in violent crime from the end of last year until now, then your use of these funds to reduce gun violence would be permitted.

Should you decide to prioritize the use of your Rescue Plan funds for the purpose of fighting violent crime and improving public safety, I recommend that you engage your local prosecutors and law enforcement officers in this discussion. My Office would also welcome the opportunity to assist you in identifying efficient and effective investments in crime reduction. Furthermore, in a separate writing, **I will encourage the Governor and state appropriators to match, with the state’s Rescue Plan funds, any local Rescue Plan funds spent to combat violent crime.**

We can all agree that every Alabamian has the right to live free from the fear of violence, no matter their county, city, or ZIP code. The American Rescue Plan gives us a rare opportunity to convert funds borne out of a reckless federal spending scheme into a meaningful investment in public safety.

Please join me in this fight.

Respectfully,



Steve Marshall
Attorney General

⁵ See U.S. DEP’T OF THE TREASURY, *supra* note 1, at 14 (“In the Interim Final Rule, any diminution in actual revenue calculate using the formula above would be presumed to have been ‘due to’ the COVID-19 public health emergency.”); see also, *id.* at 13 (“Recipients are permitted to calculate the extent of reduction in revenue as of four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023. This approach recognizes that some recipients may experience lagged effects of the pandemic on revenues. Upon receiving Fiscal Recovery Fund payments, recipients may immediately calculate revenue loss for the period ending December 31, 2020.”).



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Governor Kay Ivey
600 Dexter Avenue
Montgomery, Alabama 36130

Speaker Mac McCutcheon
11 South Union Street
Montgomery, Alabama 36130

President Pro Tem Greg Reed
11 South Union Street
Montgomery, Alabama 36130

VIA EMAIL

Dear Governor Ivey, Speaker McCutcheon, and Senator Reed:

As you begin to make plans for the \$2.1 billion designated to the State of Alabama in the American Rescue Plan Act of 2021, I write to draw your attention to the most recent guidance from the U.S. Department of the Treasury related to permissible uses of these funds. On June 23, the Department issued an updated “Frequently Asked Questions” document that includes a welcomed provision authorizing the use of these funds to reduce violent crime—and gun violence, specifically—that has increased “due to the pandemic.”¹ As is true nationwide, many areas of our great state have recently experienced surges in violent crime. Accordingly, I urge you to prioritize Rescue Plan funds in the fight against this dangerous lawlessness.

The full “Frequently Asked Questions” document from the Department is attached hereto, but the relevant provisions are as follows:

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- *Investing in technology and equipment to allow law enforcement to more efficiently and effectively respond to the rise in gun violence resulting from the pandemic.*²

I have written to the county commissions and city councils, urging them to prioritize Rescue Plan funds for the purpose of fighting violent crime and improving public safety. My ask to you is similar: **please consider setting aside a portion of the state's funds to match any local Rescue Plan funds spent to combat violent crime.** The entire state will reap the benefits of decreased crime;

² Id.

thus, encouraging local governments to prioritize crime reduction by offering a state match is a responsible and worthy use of the state share.

I know you agree that every Alabamian has the right to live free from the fear of violence, no matter their county, city, or ZIP code. The American Rescue Plan gives us a rare opportunity to convert funds borne out of a reckless federal spending scheme into a meaningful investment in public safety.

Please join me in this fight.

Respectfully,

A handwritten signature in blue ink that reads "Steve Marshall". The signature is fluid and cursive, with the first name "Steve" and last name "Marshall" clearly distinguishable.

Steve Marshall
Attorney General